

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS

ONE WORLD FOODS, INC.,
Plaintiff,

v.

STUBBS AUSTIN RESTAURANT COMPANY
LC, FBR MANAGEMENT LLC, MIKE FARR,
MATT LUCKIE, and JEFF WAUGHTAL,
Defendants.

Case No. 1:15-CV-01071

**COMPLAINT FOR FEDERAL
TRADEMARK INFRINGEMENT
AND FALSE DESIGNATION OF
ORIGIN, COMMON LAW
TRADEMARK INFRINGEMENT,
AND DILUTION OF FAMOUS
MARK UNDER TEXAS LAW**

JURY TRIAL DEMANDED

One World Foods, Inc. ("Plaintiff") brings this action against Stubbs Austin Restaurant Company LC, Mike Farr, Matt Luckie, and Jeff Waughtal (collectively "Defendants") and alleges as follows:

PARTIES

1. Plaintiff One World Foods, Inc. is a corporation organized under the laws of Delaware and having its principal place of business at 1219 West Sixth Street, Austin, Texas 78703. Plaintiff engages in the manufacture and sale of STUBB's barbecue sauces, rubs, and marinades and has offered and licensed others to offer prepared foods through STUBB's-branded restaurants, catering services, food stalls, and food trucks. Plaintiff's goods and services are marketed under Plaintiff's STUBB'S® trademarks (collectively, "Plaintiff's STUBB'S® Marks").

2. On information and belief, Defendant Stubb's Austin Restaurant Company, LC ("SARC") is a limited liability company organized under the laws of Texas doing business as "Stubb's Bar-B-Q" and having its principal place of business at 801 Red River Street, Austin, Texas 78701.

1 its predecessor acquired all intellectual property interests owned by famed Texas barbecue
2 restaurateur C.B. “Stubb” Stubblefield, including recipes, processes, techniques, practices,
3 sauces and products, names, rights, trademarks, copyrights, and patents. In 1992, Plaintiff began
4 selling barbecue sauces, marinades, cassette cookbooks and apparel under the STUBB’S name.
5 Today, Plaintiff manufactures and sells a full range of barbecue sauces, rubs and marinades under
6 the STUBB’S brand throughout the United States.
7

8 9. Plaintiff has invested substantial effort and resources in developing and promoting its
9 products and services under various STUBB’S® trademarks, and is now the leading premium
10 barbecue sauce in the United States, with up to \$30 million in projected sales for 2015, and an
11 expected double-digit growth rate for the next several years.
12

13 10. Plaintiff owns the considerable and valuable goodwill associated with the STUBB’S
14 Marks, which have attracted an enthusiastic and loyal consumer base. Plaintiff intends to expand
15 and exploit this goodwill through increased retail distribution and the introduction of innovative
16 flavors.
17

18 11. Plaintiff’s STUBB’S® Marks are distinctive, and are famous within the State of Texas
19 as a designation of the source of Plaintiff’s goods and services.
20

Plaintiff’s Intellectual Property

21 12. Plaintiff is the owner of numerous registrations and trademarks for its STUBB’S
22 Marks, including but not limited to the following U.S. Registered marks:
23

24 13. Plaintiff owns U.S. Registration No. 3,122,375 for the STUBB’S® word mark for
25 “meat sauces and marinades, chili powder, hot pepper powder and other spicy powders containing
26 salt, black pepper, paprika, ginger, mustard flour and lime powder” in International Class 30, with
27 a claimed first use in commerce date of December 1, 1990, and “restaurant services and catering”
28 in International Class 43, with a claimed first use in commerce date of December 31, 1968. The

1 application to register the STUBB'S® mark as shown in U.S. Registration No. 3,122,375 was
2 filed on July 19, 2004. On May 25, 2012, Plaintiff filed an affidavit under Section 15 of the
3 Lanham Act claiming incontestability for U.S. Registration No. 3,122,375. The Section 15
4 affidavit was acknowledged by the U.S. Patent and Trademark Office ("USPTO") on June 6,
5 2012. Accordingly, Plaintiff's rights in the STUBB'S® mark registered in U.S. Registration No.
6 3,122,375 are considered incontestable. Attached hereto as Exhibit A is a true and correct copy
7 of the registration certificate for U.S. Registration No. 3,122,375.
8

9 14. Plaintiff owns U.S. Registration No. 3,275,845 for the STUBB'S® word mark for
10 "meat" in International Class 29, with a claimed first use in commerce date of February 6, 2007.
11 The application to register the STUBB'S® mark as shown in U.S. Registration No. 3,275,845
12 was filed on February 7, 2005. On August 29, 2013, Plaintiff filed an affidavit under Section 15
13 of the Lanham Act claiming incontestability for U.S. Registration No. 3,275,845. The Section 15
14 affidavit was acknowledged by the USPTO on May 29, 2013. Accordingly, Plaintiff's rights in
15 the STUBB'S® mark registered in U.S. Registration No. 3,275,845 are considered incontestable.
16 Attached hereto as Exhibit B is a true and correct copy of the registration certificate for U.S.
17 Registration No. 3,275,845.
18

19 15. Plaintiff owns U.S. Registration No. 3,572,397 for the STUBB'S® word mark for
20 "prepared meats, poultry and game; marinated meats, poultry and game; processed meats, poultry
21 and game; packaged meats, poultry and game; cooked and smoked meats, and barbeque meats;
22 jerky; sausages; preserved meats" in International Class 29, with a claimed first use in commerce
23 date of October 31, 2006. The application to register the STUBB'S® word mark as shown in
24 U.S. Registration No. 3,572,397 was filed on July 2, 2008. On February 6, 2015, Plaintiff filed
25 an affidavit under Section 15 of the Lanham Act claiming incontestability for U.S. Registration
26 No. 3,572,397. The Section 15 affidavit was acknowledged by the USPTO on February 21, 2015.
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1 Accordingly, Plaintiff's rights in the STUBB'S® mark registered in U.S. Registration No.
2 3,572,397 are considered incontestable. Attached hereto as Exhibit C is a true and correct copy of
3 the registration certificate for U.S. Registration No. 3,572,397.

4 16. Plaintiff owns U.S. Registration No. 3,576,100 for the STUBB'S® word mark for
5 "entertainment venue services, namely, providing facilities for movies, shows, plays, or music;
6 music halls; providing facilities for music; entertainment services, namely production of live
7 musical performances; entertainment in the nature of theater productions; entertainment in the
8 nature of live musical performances; music production; entertainment services, namely, providing
9 pre-recorded music on-line via a global computer network" in International Class 41, with a
10 claimed first use in commerce date of March 15, 1995. The application to register the
11 STUBB'S® mark as shown in U.S. Registration No. 3,576,100 was filed on July 29, 2008. On
12 August 12, 2015, Plaintiff filed an affidavit under Section 15 of the Lanham Act claiming
13 incontestability for U.S. Registration No. 3,576,100. The Section 15 affidavit was acknowledged
14 by the USPTO on September 14, 2015. Accordingly, Plaintiff's rights in the STUBB'S mark
15 registered in U.S. Registration No. 3,576,100 are considered incontestable. Attached hereto as
16 Exhibit D is a true and correct copy of the registration certificate for U.S. Registration No.
17 3,576,100.
18

19 20 17. Plaintiff owns U.S. Registration No. 3,685,090 for the STUBB'S® Design mark for
21 "prepared meats, poultry and game; marinated meats, poultry and game; processed meats, poultry
22 and game; packaged meats, poultry and game; cooked and smoked meats, and barbeque meats;
23 jerky; sausages; preserved meats" in International Class 29, with a claimed first use in commerce
24 date of October 31, 2006. The application to register the STUBB'S® mark as shown in U.S.
25 Registration No. 3,685,090 was filed on July 29, 2008. On February 11, 2015, Plaintiff filed an
26 affidavit under Section 15 of the Lanham Act claiming incontestability for U.S. Registration No.
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1 3,685,090. The Section 15 affidavit was acknowledged by the USPTO on February 26, 2015.
2 Accordingly, Plaintiff's rights in the STUBB'S® mark registered in U.S. Registration No.
3 3,685,090 are considered incontestable. Attached hereto as Exhibit E is a true and correct copy of
4 the registration certificate for U.S. Registration No. 3,685,090.

5 18. Plaintiff owns U.S. Registration No. 3,811,847 for the STUBB'S® Design mark for
6 "sauces; barbeque sauces; sauces for meats, poultry, and fish; marinades; spice rubs; dry spice
7 rubs for meats, poultry, and fish; barbeque dry rubs; condiments, namely, dipping sauces, hot
8 sauces, pepper sauces; smoking sauces for meats, poultry, and fish" in International Class 30,
9 with a claimed first use in commerce date of June 30, 1999. The application to register the
10 STUBB'S® mark as shown in U.S. Registration No. 3,811,847 was filed on April 2, 2009.
11 Attached hereto as Exhibit F is a true and correct copy of the registration certificate for U.S.
12 Registration No. 3,811,847.
13

14 19. Plaintiff owns U.S. Registration No. 3,888,467 for the STUBB'S® word mark for
15 "charcoal for cooking and cooking fuel" in International Class 4, with a claimed first use in
16 commerce date of March 31, 2008. The application to register the STUBB'S® mark as shown in
17 U.S. Registration No. 3,888,467 was filed on October 20, 2008. Attached hereto as Exhibit G is a
18 true and correct copy of the registration certificate for U.S. Registration No. 3,888,467.
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20 20. Plaintiff owns U.S. Registration No. 3,895,883 for the STUBB'S® word mark for
21 "meat-based snack foods" in International Class 29, with a claimed first use in commerce date of
22 July 31, 2008. The application to register the STUBB'S® mark as shown in U.S. Registration
23 No. 3,895,883 was filed on October 20, 2008. Attached hereto as Exhibit H is a true and correct
24 copy of the registration certificate for U.S. Registration No. 3,895,883.
25

26 21. Plaintiff also owns U.S. Registration No. 3,960,287 for the STUBB'S® word mark for
27 "restaurant and catering services; restaurant and catering services featuring specialized barbecue,
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1 provided in a venue featuring live music” in International Class 43, with a claimed first use in
2 commerce date of December 31, 1968. The application to register the STUBB’S® mark as
3 shown in U.S. Registration No. 3,960,287 was filed on July 2, 2008. Attached hereto as Exhibit I
4 is a true and correct copy of the registration certificate for U.S. Registration No. 3,960,287.

5 22. Additionally, Plaintiff owns U.S. Registration No. 4,077,441 for the STUBB’S®
6 Design mark for “restaurant and bar services; food and beverage catering services; restaurant and
7 catering services which provide food and beverages; restaurant and catering services which
8 provide barbeque meats, foods and beverages” in International Class 43, with a claimed first use
9 in commerce date of January 31, 1995. The application to register the STUBB’S® mark as
10 shown in U.S. Registration No. 4,077,441 was filed on April 2, 2009. Attached hereto as Exhibit
11 J is a true and correct copy of the registration certificate for U.S. Registration No. 4,077,441.
12

13 23. Plaintiff also owns U.S. Registration No. 4,099,333 for the STUBB’S® Design mark
14 for “entertainment services, namely, theatrical and musical floor shows provided at performance
15 venues, music halls; music production services; live musical concerts; presentation of live show
16 performances; providing facilities for concerts and live music performances; entertainment
17 services, namely, production of live music performances, movies, musical shows or plays” in
18 International Class 41, with a claimed first use in commerce date of November 30, 2006. The
19 application to register the STUBB’S® mark as shown in U.S. Registration No. 4,099,333 was
20 filed on October 20, 2008. Attached hereto as Exhibit K is a true and correct copy of the
21 registration certificate for U.S. Registration No. 4,099,333.
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1 24. Through substantial use and promotion of its STUBB'S® Marks since at least as early
2 as December 31, 1968, Plaintiff has also acquired common law rights in the STUBB'S® Marks.

3 **Defendants' Business and Wrongful Conduct**

4 25. As early as 1996, Plaintiff granted an oral license (hereafter "the License") to
5 Defendant SARC to operate a barbecue restaurant under the name Stubb's Bar-B-Q, at 801 Red
6 River Street, Austin, Texas 78701 (hereafter "Stubb's Red River St."), and to offer for sale
7 related clothing, souvenirs, and memorabilia. The License further permitted Defendant SARC to
8 offer catering services using STUBB'S® Marks at a nearby honky-tonk themed bar called Mean
9 Eyed Cat, located at 1621 West 5th Street, Austin, Texas 78703. The License between Plaintiff
10 and Defendant SARC is limited to restaurant services (and the sale of related memorabilia and
11 merchandise) at Stubb's Red River St. and catering services at Mean Eyed Cat.
12

13 26. On information and belief, Defendants recently began offering restaurant services
14 using the STUBB'S® Marks at a location called Stubb's Bar-B-Q at Graceland Grocery
15 (hereafter "Stubb's at Graceland Grocery") at 8600 US-290 West, Austin, Texas 78736. On
16 information and belief, Stubb's at Graceland Grocery is a full-service barbecue restaurant located
17 on the back patio of a property called Graceland Grocery, which also includes a coffee shop and a
18 convenience store.
19

20 27. On information and belief, Defendants use STUBB'S® Marks throughout Stubb's at
21 Graceland Grocery, including but not limited to a prominent road sign that reads "Stubb's at
22 Graceland Grocery," a sandwich board chalk menu, paper menus, disposable beverage containers,
23 and various food wrappings. On information and belief, Defendants also use STUBB'S® Marks
24 inside the property's convenience store, at a self-serve station offering STUBB'S® ready-made
25 breakfast burritos.
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1 28. On information and belief, Defendants represent Stubb's at Graceland Grocery as an
2 expansion of the restaurant services offered at Stubb's Red River St. Namely, Defendant SARC's
3 online webpage for Stubb's Red River St. (www.stubbsaustin.com) features an announcement
4 inviting customers to "stop in and check out our newest location at 8600 Hwy 290W Austin TX
5 78735." Below this text is a hyperlink for "Stubb's Bar-B-Q Graceland Grocery," which directs
6 the user to a Facebook page for "Stubb's Bar-B-Q at Graceland Grocery Barbecue Restaurant."
7 The Facebook page also represents Stubb's at Graceland Grocery as "Stubb's Bar-B-Q's newest
8 location."

9
10 29. On information and belief, in or about September 2015, Defendants FBR and/or Jeff
11 Waughtal and Matt Luckie purchased a tavern called Lala's Little Nugget, located at 2207 Justin
12 Lane, Austin, Texas 78757. On information and belief, Defendants plan to offer restaurant
13 and/or catering services at Lala's Little Nugget using the STUBB'S® Marks.

14
15 30. On information and belief, Defendants knew of Plaintiff's prior rights in its
16 STUBB'S® Marks and disregarded those rights when Defendants adopted the STUBB'S® Marks
17 for use at Stubb's at Graceland Grocery and Lala's Little Nugget.

18 **Harm to Plaintiff and Plaintiff's Marks**

19 31. On information and belief, the restaurant services offered at Defendants' Stubb's at
20 Graceland Grocery and Lala's Little Nugget are or will be closely related and complementary to
21 the goods and services offered under Plaintiff's STUBB'S® Marks.

22
23 32. On information and belief, Defendants' customers at Stubb's at Graceland Grocery
24 and Lala's Little Nugget are likely to consist or likely will consist of many of the same customers
25 who are already familiar with the goods and services offered under Plaintiff's STUBB'S® Marks.

26 33. On information and belief, Defendants' unauthorized use of Plaintiff's STUBB'S®
27 Marks has caused and will likely continue to cause confusion or mistake or deception, now and in
28

1 the future, as to the origin, source, or sponsorship of Defendants' restaurant services.

2 34. Defendants' use and promotion of the STUBB'S® Marks at Stubb's at Graceland
3 Grocery and Lala's Little Nugget has resulted in and will continue to result in incalculable harm
4 to Plaintiff because of a likelihood of confusion among customers and injury to Plaintiff's
5 reputation.

6 35. Defendants' conduct is continuing and will continue unless restrained by the Court.
7 Unless Defendants are enjoined from engaging in the wrongful conduct described above, Plaintiff
8 will suffer irreparable injury and further harm. Plaintiff has no adequate remedy at law.

9
10 **CLAIMS FOR RELIEF**

11 **CLAIM 1 – TRADEMARK INFRINGEMENT UNDER 15 U.S.C. § 1114**

12 36. Plaintiff repeats and realleges each allegation set forth in paragraphs 1 through 35
13 above as if fully set forth herein.

14 37. The acts of Defendants described above constitute trademark infringement in violation
15 of Section 32 of the Lanham Act, 15 U.S.C. § 1114.

16 38. Plaintiff has valid and protectable registered rights in the STUBB'S® Marks since
17 substantially prior to Defendants' first use of the STUBB'S® Marks to promote restaurant
18 services at Stubb's at Graceland Grocery and Lala's Little Nugget.

19 39. On information and belief, Defendants had actual knowledge of Plaintiff's ownership
20 and use of the STUBB'S® Marks prior to Defendants' adoption and use of the STUBB'S®
21 Marks in connection with Stubb's at Graceland Grocery and Lala's Little Nugget.

22 40. Plaintiff has not authorized Defendants to use the STUBB'S® Marks in connection
23 with Stubb's at Graceland Grocery, Lala's Little Nugget, or for any use other than those
24 restaurant and catering services authorized by the License.
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1 41. Defendants' unauthorized use and promotion of the STUBB'S® Marks are likely to
2 cause confusion, mistake, or deception on the part of consumers as to the source, nature, and
3 quality of the services Defendants are promoting or offering under the STUBB'S® Marks,
4 constituting trademark infringement in violation of 15 U.S.C. § 1114.

5 42. As a direct and proximate result of Defendants' wrongful conduct, Plaintiff has been,
6 is now, and will be irreparably injured and damaged by Defendants' aforementioned acts, and
7 unless Defendants are enjoined by the Court, Plaintiff will suffer further harm to its name,
8 reputation, and goodwill. This harm constitutes an injury for which Plaintiff has no adequate
9 remedy at law.
10

11 43. On information and belief, Defendants have acted willfully to usurp Plaintiff's rights,
12 and Defendants should be held liable to Plaintiff for treble damages and attorneys' fees pursuant
13 to 15 U.S.C. § 1117(a).
14

15 **CLAIM 2 – FALSE DESIGNATION OF ORIGIN UNDER 15 U.S.C. § 1125(a)**

16 44. Plaintiff repeats and realleges each allegation set forth in paragraphs 1 through 43
17 above as if fully set forth herein.

18 45. The acts of Defendants described above constitute unfair competition and false
19 designation of origin in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).
20

21 46. Plaintiff has valid and protectable rights in the STUBB'S® Marks since substantially
22 prior to Defendants' first use of the STUBB'S® Marks at Stubb's at Graceland Grocery and
23 Lala's Little Nugget.

24 47. On information and belief, Defendants had actual knowledge of Plaintiff's ownership
25 and use of the STUBB'S® Marks prior to Defendants' adoption and use of the STUBB'S®
26 Marks at Stubb's at Graceland Grocery and Lala's Little Nugget.
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1 48. Plaintiff has not authorized Defendants to use the STUBB'S® Marks at Stubb's at
 2 Graceland Grocery, Lala's Little Nugget, or for any use other than those restaurant and catering
 3 services authorized by the License.

4 49. Defendants' unauthorized use and promotion of the STUBB'S® Marks are likely to
 5 cause consumers to believe that there is a relationship between Defendants' unauthorized
 6 restaurant and/or catering services and Plaintiff and/or that Defendants' unauthorized restaurant
 7 and/or catering services are associated with or come from Plaintiff and such association
 8 constitutes false designation of origin, in violation of 15 U.S.C. § 1125(a).
 9

10 50. As a direct and proximate result of Defendants' wrongful conduct, Plaintiff has been,
 11 is now, and will be irreparably injured and damaged by Defendants' aforementioned acts, and
 12 unless Defendants are enjoined by the Court, Plaintiff will suffer further harm to its name,
 13 reputation, and goodwill. This harm constitutes an injury for which Plaintiff has no adequate
 14 remedy at law.
 15

16 51. On information and belief, Defendants have acted willfully to usurp Plaintiff's rights,
 17 and Defendants should be held liable to Plaintiff for treble damages and attorneys' fees pursuant
 18 to 15 U.S.C. § 1117(a).
 19

20 **CLAIM 3 – DILUTION OF A FAMOUS MARK UNDER TEX. BUS.**
& COM. CODE §§ 16.103 et seq.

21 52. Plaintiff repeats and alleges each allegation set forth in paragraphs 1 through 51 above
 22 as if fully set forth herein.

23 53. The acts of Defendants described above constitute dilution of a famous mark under
 24 Texas Business & Commerce Code § 16.103 et seq.
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26 54. Plaintiff's STUBB'S Marks are famous and distinctive within the State of Texas.

27 55. Defendants' unauthorized use of Plaintiff's STUBB'S® Marks at Graceland Grocery
 28 and Lala's Little Nugget occurred after Plaintiff's STUBB'S® Marks became famous.

1 56. Defendants' unauthorized commercial use of Plaintiff's STUBB'S® Marks is likely to
2 cause the dilution of Plaintiff's famous STUBB'S® Marks.

3 57. On information and belief, Defendants' unauthorized use of Plaintiff's STUBB'S®
4 Marks was committed with knowledge of Plaintiff's STUBB'S Marks® and/or in bad faith.

5 **CLAIM 4 – COMMON LAW TRADEMARK INFRINGEMENT**

6 58. Plaintiff repeats and alleges each allegation set forth in paragraphs 1 through 57 above
7 as if fully set forth herein.

8 59. The acts of Defendants described above constitute trademark infringement in
9 violation of the common law of the State of Texas.

10 60. Plaintiff's STUBB'S Marks are eligible for protection.

11 61. Plaintiff's use of and rights in its STUBB'S Marks predate Defendants' unauthorized
12 use of the STUBB'S Marks.

13 62. Defendants' unauthorized use and promotion of the STUBB'S Marks is likely to cause
14 confusion, mistake, or deception on the part of consumers as to the source, nature, and quality of
15 the services Defendants are promoting or offering under the STUBB'S Marks.

16 63. The likelihood of confusion will cause irreparable injury for which there is no
17 adequate legal remedy.

18 **PRAYER FOR RELIEF**

19 WHEREFORE, Plaintiff prays for relief as follows:

20 1. That judgment be entered in favor of Plaintiff and against Defendants on each and
21 every Claim of this Complaint;

22 2. For entry of an order and judgment requiring that Defendants and their officers,
23 agents, servants, employees, owners, and representatives, and all other persons, firms, or
24 corporations in active concert or participation with them, be enjoined during the pendency of this
25

1 action and permanently thereafter from (a) using in a manner inconsistent with the License, any
2 mark that wholly incorporates the STUBB'S® Marks, or any mark that is confusingly similar to
3 or a colorable imitation of the STUBB'S® Marks; (b) doing any act or thing calculated or likely
4 to cause confusion or mistake in the minds of the members of the public or prospective customers
5 as to the source of the services offered by Defendants at Stubb's at Graceland Grocery, Lala's
6 Little Nugget, or any other unauthorized location, or likely to confuse members of the public, or
7 prospective customers, into believing that there is some connection between Plaintiff and
8 Defendants' unauthorized restaurant and/or catering services at Stubb's at Graceland Grocery,
9 Lala's Little Nugget, or any other unauthorized location; (c) otherwise competing unfairly with
10 Plaintiff in any manner; or (d) assisting, aiding or abetting any other person or business entity in
11 engaging in or performing any of the activities referred to in parts (a) through (c) of this
12 paragraph 2.
13
14

15 3. For entry of an order and judgment directing Defendants, pursuant to 15 U.S.C.
16 § 1116(a), to file with this Court and serve upon Plaintiff within thirty (30) days after entry of the
17 injunction, a report in writing under oath setting forth in detail the manner and form in which
18 Defendants have complied with the injunction and ceased all offering of services under the
19 STUBB'S® Marks at Stubb's at Graceland Grocery, Lala's Little Nugget, or any other
20 unauthorized location, as set forth above;
21

22 4. For entry of an order and judgment directing Defendants, pursuant to 15 U.S.C.
23 § 1118, to deliver up for destruction, or to show proof of said destruction or sufficient
24 modification to eliminate the infringing matter, all signage, menus, letterhead, business cards,
25 promotional items, clothing, literature, or other matter in the possession, custody, or under the
26 control of Defendants or their agents referring to Stubb's at Graceland Grocery, Lala's Little
27 Nugget, or any other unauthorized location;
28

1 5. For a judgment in the aggregate amount of (a) Defendants' profits, (b) Plaintiff's
2 actual damages, (c) and the costs of this action pursuant to 15 U.S.C. § 1117;

3 6. That the Court award enhanced damages under 15 U.S.C. § 1117;

4 7. That the Court award Plaintiff reasonable attorneys' fees; and

5 8. That the Court grant such other and further relief as it deems just and proper.
6

7
8 Dated: November 25, 2015
9

10 **WILSON, ELSE, MOSKOWITZ,**
11 **EDELMAN & DICKER LLP**

12 By: 

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26
27
28

DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial by jury of all issues so triable under the law as provided by Rule 38(a) of the Federal Rules of Civil Procedure.

Dated: November 25, 2015

**WILSON, ELSE, MOSKOWITZ,
EDELMAN & DICKER LLP**

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